

Procedural Guide

0700-504.20

REFERRING DEPENDENT CHILDREN FOR SPECIAL EDUCATION OR EARLY INTERVENTION SERVICES (EARLY START)

Date Issued: 01/27/10

☐ New Policy Release

☒ Revision of existing Procedural Guide 0700-504.20, Referring Dependent Children for Special Education, dated 09/21/06

Revisions Made: NOTE: Current Revisions are Highlighted

The Procedural Guide has been revised to provide updated information, clarification of instruction and streamlining of procedures. The phrase, "or Early Intervention Services (Early Start)" has been added to the title to emphasize regional center and school based services for children 0-36 mos. Additional information on Federal law was added. Current definitions were clarified and new definitions were added. Instructions regarding children 0-36 months were significantly revised to reflect requirement for DCFS Medical Hub disability screenings and referrals to regional centers or LEA. Specific CWS/CMS documentation instructions regarding IEPs and Case Plan were added. SCSW instructions were removed and best practice recommendations were added. All citations in the Overview of Statutes/Regulations section have been summarized, and legal reference links have been added. References and links to the California Department of Education, Surrogate Parents in California Special Education – Services & Resources, as well as, the Los Angeles County Department of Education have been provided. References to forms that are not a direct function of this procedure were removed including: JV-535, JV 536, DCFS 1727 and 4389. CWS/CMS documentation requirements were clarified. SCSW tasks that are more appropriately addressed in Procedural Guide 0700-507.10, Appointment of an Educational Representative or Educational Surrogate Parent for the Purpose of Making Educational Decisions, were removed. References to Procedural Guides 0070-516.10, Assessing the Development of Children 0-59 Months Old; 0070-548.15, Referring Children 0-36 Months Who Are Involved in a Substantiated Referral to Regional Center for an Assessment and; 0600-520.00, Collaborating with Regional Centers to Provide Services to Children/Youth were added.

Cancels: None

DEPARTMENTAL VALUES

This policy supports the Department's efforts to obtain timely permanence and improved safety for children. A key element towards these efforts is ensuring that children receive free and appropriate education.

WHAT CASES ARE AFFECTED

This Procedural Guide is applicable to all new and existing referrals and cases.

OPERATIONAL IMPACT

The Federal Individuals with Disabilities Education Act (IDEA) ensures that all children with disabilities have access to a free, appropriate, public education in the least restrictive environment that emphasizes special education and related services designed to meet unique needs.

A child who is eligible for special education has a right to a free, appropriate public education **in the least restrictive environment**, pursuant to Federal and State Law. The Local Educational Agency (LEA), which means a school district, a county office of education, a charter school participating as a member of a special education local plan area, or a special education local plan area, is responsible for identifying students who are eligible for Special Education Services by conducting educational assessments and for developing and implementing the Individual Education Program (IEP).

Section 504 of the Rehabilitation Act of 1973 covers a broader group of students than IDEA. All children that qualify under IDEA also qualify for protections under 504, but there are some students who only qualify for 504. Usually students with 504 plans are those who do not qualify under IDEA.

Section 504 Eligibility: Section 504 provides services to studentw who have physical or mental impairment that substantially impairs a major life activity (such as learning). Some examples that may warrant a 504 plan are asthma, allergies, diabetes, ADD, or ADHD. Section 504 requires a plan but it is not called an IEP, and different districts process these plans differently.

Special Education Services Eligibility under IDEA: Two triggering conditions must be met:

1. Child has an impairment adversely affecting his/her educational performance that requires special education.
2. Impairment fits into one of the following qualifying categories of disabilities:

- mental retardation
- hearing impairment (including deafness)
- speech or language impairment
- visual impairment
- emotional disturbance
- hearing and visual impairment
- severe orthopedic impairment
- autism
- traumatic brain injury
- other health impairment, or specific learning disability

In some situations, the LEA may suggest alternatives to special education such as modifying the program or the use of community resources before referring the child for assessment.

In addition, existing laws mandate that a public school be considered as the first school placement option for foster children unless the child's IEP specifies a nonpublic school or the person holding the educational rights of the child determines it is in the child's best interests to attend a nonpublic school. A residential placement facility or a group home is prohibited from requiring, as a condition of placement, that a child be identified as a child with disabilities or that the child attends their nonpublic school.

CSWs may recommend that parent(s) make written requests for assessment to determine if a child qualifies for special education. However, any family member can make special education referrals. If the parent is not available or his/her rights to make educational decisions have been limited **by the court**, the court **is required to** either **immediately** appoint a responsible adult or, **in the case of a child with disabilities when a responsible adult is not available**, order the LEA to appoint an **educational** surrogate parent to make educational decisions for the child. See Procedural Guide 0700-507.10, Appointment of Educational Representative or Educational Surrogate Parent for the Purpose of Making Educational Decisions.

Holder of Education Rights (HER)

The Holder of Education Rights (HER) is the person legally entitled to and responsible for making educational decisions on behalf of a dependent child of the court. CSW's should **monitor** progress, changes or reviews of the IEP **and** actively participate and provide input in the educational planning for children under their supervision.

NOTE: The CSW may never authorize the child's Individual Education Plan (IEP) or make educational decisions on the child's behalf.

CSW Support Contacts

CSW's are encouraged to consult with the Education Consultant and/or County Counsel assigned to their offices and/or the DCFS Education & Mentoring Section staff and/or the Office of the Medical Director Regional Center Coordinator (Contact information is on LA Kids) with any questions or challenges related to the school, a child's education or a child's disability.

Early Intervention Services (Early Start)

Regional Centers are responsible for providing screening/assessment and early intervention services for children 0-36 months who are developmentally delayed. The HER may request early intervention services if (s)he thinks the child will benefit from those services. The regional center is also responsible for developing the Individual Family Service Plan (IFSP) and conducting reassessments. Refer to Procedural Guides 0070-516.10, Assessing the Development of Children 0-59 Months Old, 0070-548.15, Referring Children 0-36 Months Who Are Involved in a Substantiated Referral to Regional Center for an Assessment and 0600-520.00, Collaborating with Regional Centers to Provide Services to Children/Youth.

The LEAs are responsible for providing early intervention services to children 0-36 months who have low incidence disabilities (children who are blind, deaf, or have severe orthopedic impairments who are not eligible for regional center services).

Preschool Services

The LEA is responsible for providing assessment and services for children between the ages of 3 – 5. The LEA is responsible for developing the IFSP and conducting reassessments.

Special Education Services

The LEA is responsible for providing assessment and services for children between the ages of 5 - 22. The LEA is responsible for developing the Individualized Education Program (IEP) and conducting reassessments.

Student Study Team (SST)

An SST is a function of regular education, not special education, and is governed by school district policy, not federal or state law. It is not mandatory to have an SST prior to an IEP or referral for special education assessment. Students struggling in school may be referred to an SST. SST's can be the "first step" towards determining whether a student needs special education services.

Individualized Education Program (IEP)

The meeting and document that sets forth what services a child found to be eligible for special education is to receive. Also the meeting where eligibility is determined. Children aged 3 and above are eligible for an IEP provided by the schools, and to receive services from the LEA.

An IEP Team consists of: a parent/educational representative or educational surrogate parent, one regular education teacher, and educational agency representative other than the teacher, individual who conducted the assessment, other individuals with expertise or knowledge about the child's needs at the local education agency's or parent's discretion, and the child, when appropriate.

Individual Family Service Plan (IFSP)

This is the plan created by the regional centers for children receiving Early Intervention Services (Early Start) to address developmental delays. The IFSP is also created by the LEA for children ages 0-59 months who are receiving Early Intervention Services to address physical disabilities or; Preschool Services for Special Education. IFSP's are held every six months and are based on the goals of the caregiver and HER for the child's development.

Procedures

A. WHEN: CHILDREN 0-36 MONTHS

CSW Responsibilities

1. Children 0-36 months who are involved in a substantiated referral must be screened at a DCFS Medical Hub for a Regional Center referral. See instructions in Procedural Guide 0070-548.15, Referring Children 0-36 Months Who Are Involved in a Substantiated Referral to Regional Center for an Assessment.

NOTE: During the DCFS Medical Hub screening process, it will be determined whether an infant's need(s) can be met in the school district's programs for the Visually Impaired or Deaf and Hard-of-Hearing, or if a referral to a regional center is indicated. If the parent is not available or his/her rights to make educational decisions have been limited by the court, the court is required to either immediately appoint an Education Representative (EdRep) or, in the case of a child with disabilities when an EdRep is not available, order the LEA to appoint an Educational Surrogate Parent (ESP) to make educational decisions for the child. See Procedural Guide 0700-507.10, Appointment of Educational Representative or Educational Surrogate Parent for the Purpose of Making Educational Decisions.

2. If the **Regional Center** determines that the child is not eligible for **Early Intervention Services**, request that the **Regional Center** provide the reasons in writing for inclusion in the case file.
3. If the **Regional Center's** assessment **supporting or denying Early Intervention Services** is in conflict with the information that lead to the initial referral, consult with the **DCFS Education & Mentoring Section** staff or the **Office of the Medical Director Regional Center Coordinator** regarding the subsequent proper course of action (see contact information on p.4).
4. If the assessment determines that **Early Intervention Services** are not appropriate, provide the child and his family with appropriate referrals.

NOTE: If the assessment indicates that **Early Intervention Services** are appropriate, **the Regional Center develops an Individual Family Service Plan (IFSP).**

5. Attend the **initial IFSP** meeting and actively participate in the **services** planning for children under supervision.

NOTE: The CSW may sign the IFSP as a participant only. Authorization for the IEP must be provided by the HER.

6. Follow-up and be actively involved in **bi**-annual reviews for progress or reviews for changes to the **IFSP**.
7. Ensure that the **HER** is actively following up with the **IFSP** and is looking after the best interest of the child.
8. If the **HER** is not following up with the case plan as it relates to **Early Intervention Services**, bring it to the attention of the court. If appropriate, recommend that the parents' education rights be limited, or if applicable, that the EdRep appointment be terminated or for the LEA to replace the ESP per existing procedures. See Procedural Guide 0700-507.10, Appointment of Educational Representative or Educational Surrogate Parent for the Purposes of Making Educational Decisions.
9. Document the following information in the **CWS/CMS** Education Notebook and the Case Plan. **Refer to Procedural Guide 0600-520.00, Collaborating with Regional Centers to Provide Services to Children/Youth.**
 - a) Refer to section D of this Procedural Guide for IFSP documentation instructions.
 - b) Document the following in the Case Plan:

- Identification and referral process information
- Regional Center assessment report.
- IFSP
- Medical/psychological evaluation results

10. Document all Contacts and Service Provider information in CWS/CMS.

B. WHEN: A CHILD AGE 3 TO 5 YEARS MAY NEED BEHAVIORAL OR ACADEMIC PERFORMANCE INTERVENTION

CSW Responsibilities

1. Identify all preschool age dependent children (3-5 years) who have behavioral or academic performance concerns that may need intervention.
 - a) Discuss these concerns with the child's teacher, counselor, or Special Education Services Preschool Programs Coordinator or the school Education Liaison for Foster Youth and the HER.
 - b) If deemed appropriate, after consulting with school officials and/or DCFS Education & Mentoring Section staff, recommend to the HER that (s)he request an assessment for Special Education at the child's school district.

NOTE: The child's academic performance, developmental, health or social-emotional problems are examined to distinguish children with needs that can be met by modification of the home or general preschool environment from those who may require Special Education Services.

The Student Planning Team/Student Study Team (for definition, see p. 4) may conclude that:

- Special Education Services will not be required. The information indicates that the child does not meet the criteria of an individual with disabilities.
- Recommendation will be made for appropriate modification in the home or preschool environment.
- The degree of the student's impairment may require special education and the student will be referred for an assessment.

2. Monitor the referral process and ensure the LEA meets required time frames (see Attachment I).

3. If the LEA determines that the child is not eligible for Special Education Services, **request that** the LEA provide the reasons in writing **for inclusion in the case file.**
4. If the LEA's assessment **supporting or denying** Special Education Services **is in conflict** with the information **that lead to the initial referral**, consult with the **child's Education Liaison for Foster Youth and the DCFS Education & Mentoring Section** staff regarding the subsequent proper course of action **(see p. 3 for contact information).**
5. If the assessment determines that Special Education Services are not appropriate, provide the child and his family with appropriate referrals.
6. Attend the **initial** Individualized Education Program (IEP) meeting and actively participate in the educational planning for children under supervision.

NOTE: A child with exceptional needs shall be allowed, as required by law, to provide confidential input to any representative of his/her IEP team, as part of his/her participation in the IEP process.

NOTE: The CSW may sign the IEP as a participant only. Authorization for the IEP must be provided by the HER.

7. Follow-up and be actively involved in annual reviews for progress or reviews for changes to the IEP. Be present during the annual re-assessments (or three year re-assessments if the student continues in special education).
8. Ensure that the **HER** is actively following up with the IEP and is looking after the best interest of the child.
9. If the **HER** is not following up with the **educational** case plan as it relates to Special Education Services, bring it to the attention of the court. If appropriate, recommend that the parents' education rights be limited, or if applicable, that the EdRep appointment be terminated or for the LEA to replace the ESP per existing procedures. See Procedural Guide 0700-507.10, Appointment of Educational Representative or Educational Surrogate Parent for the Purposes of Making Educational Decisions.
10. Document the following information in the **CWS/CMS** Education Notebook and the Case Plan **Refer to Procedural Guide 0600-520.00, Collaborating with Regional Centers to Provide Services to Children/Youth.**

a) **Refer to section D of this Procedural Guide for IEP documentation instructions.**

b) Document the following in the Case Plan:

- Identification and referral process information
- School assessment report
- IEP
- Medical/psychological evaluation results

11. Document all Contacts and Service Provider information in CWS/CMS.

C. WHEN: A CHILD AGE 6 TO 18 YEARS OLD MAY NEED BEHAVIOR OR ACADEMIC PERFORMANCE INTERVENTION

CSW Responsibilities

1. Communicate academic performance concerns to the teacher, principal, counselor Special Education Services Coordinator, or the Education Liaison for Foster Youth and/or HER.
2. Request and attend a SST meeting. The purpose of the meeting is to review the child's existing academic, health, motor, communication, social, academic and language skills, and/or behavioral information and determine if a formal assessment is appropriate.

NOTE: Concerns regarding individuals age 6-18 who are not enrolled in school and are thought to have disabilities shall be directed to the appropriate Coordinator of Special Education Services in the child's school district.

3. If the LEA suggests implementation of alternatives to Special Education prior to officially referring the child for Special Education services, advise the HER to continue with the Special Education assessment referral when disability is suspected.

NOTE: Prior to a child being identified for Special Education Services, modification of her/his general education curriculum, if appropriate, is required by law.

If the child meets the legal standard for Special Education assessment, i.e., suspected disability and has a long history of school failure, the HER should continue with the special education request even as the LEA is implementing pre-assessment general education modifications.

4. Follow steps outlined in B. 4 -11 of this Procedural Guide.

D. WHEN: DOCUMENTING IFSP'S AND IEP'S IN THE CWS/CMS EDUCATION RECORD

CSW Responsibilities

1. Document the following in the Education Notebook

- Education Provider
- Parental Rights with corresponding information
- Start date's
- Grade level and date
- Date IFSP or IEP began
- Information type (IFSP or IEP)
- Comments should include: participants, outcomes, meeting date, updates

APPROVAL LEVELS

Section	Level	Approval
A.	None	N/A
B.	None	N/A
C.	None	N/A
D.	None	N/A

OVERVIEW OF STATUTES/REGULATIONS

California Education Code Section 56026 describes individuals with exceptional needs.

California Education Code 56031 Defines Special Education and its purpose.

California Education Code Section 56050 Describes the scope of responsibilities of an educational surrogate parent.

California Government Code Section 7579.5 Sets forth conditions that must be met for and LEA to appoint an educational surrogate parent for a child and the requirements an educational surrogate must meet.

California Government Code 95014, States the specific conditions under which children ages 0-23 months may qualify for early intervention services.

Public Law 94-142, Individuals with Disabilities Education Act (IDEA) United States Code Title 20 Sections 1400 et. seq., states in pertinent part that all children with disabilities have the right to receive a free, appropriate, public education in the least restrictive environment.

United State Code 29 Section 794; Code of Federal Regulations Title 34 Section 104.1: Rehabilitation Act of 1973 Section 504 covers a broader group of students than IDEA for receiving Special Education Services.

Welfare and Institutions Code Section 5600.3(a)(2) Provides definition of seriously emotionally disturbed children or adolescents.

LINKS

California Code	http://www.leginfo.ca.gov/calaw.html
Division 31 Regulations	http://www.cdss.ca.gov/ord/PG309.htm
Title 22 Regulations	http://www.dss.cahwnet.gov/ord/PG295.htm
CA Dept. of Education	http://www.cde.ca.gov/sp/se/sr/surrogateparents.asp
LAC Dept. of Education	http://www.lacoe.edu/orgs/1475/index.cfm?ModuleId=1

RELATED POLICIES

[Procedural Guide 0070-516.10](#), Assessing the Development of Children 0-59 Months Old

[Procedural Guide 0500-501.10](#), Releasing Case Record Information

[Procedural Guide 0700-500.10](#), Youth Development: Education

[Procedural Guide 0700-507.10](#), Appointment of an Educational Representative or Educational Surrogate Parent for the Purpose of Making Educational Decisions

FORM(S) REQUIRED/LOCATION

Hard Copy	None
LA Kids	None
CWS/CMS:	Contact Notebook Case Plan Education Notebook
SDM:	None

SPECIAL EDUCATION PROCESS
Referral, Assessment, IEP Development, IEP Review

1. Referring for Assessment

- a. The LEA will respond within 15 days from the referral for assessment.
- b. The LEA determines whether an assessment is appropriate.
- c. If an assessment is appropriate, an Assessment Plan is developed and will be mailed or given in person to the HER. The Assessment Plan describes the types and purposes of the assessments, which may be used to determine the child's eligibility for special education services.
- d. The HER must approve or deny the Assessment Plan within 15 days from the day (s)he receives it.
- e. The school has 60 days (not counting school vacations greater than five days) from the receipt of the HER's signed Assessment Plan to complete the assessment and hold an Individualized Education Program (IEP) meeting.

2. Assessment

- a. During the assessment, information is gathered about the child. It is determined whether the child has disabilities, if (s)he is eligible for special education services, and the nature and extent of special education services that will meet the child's need(s). The assessment team is composed of a school psychologist, teachers who did the assessments, administrators and HER.
- b. Assessment will continue only if the HER consents to the Assessment Plan.
- c. The child is assessed in all areas of his/her suspected disabilities.
- d. The assessment is administered in the child's primary language or a qualified interpreter will be provided.
- e. The assessment includes a variety of appropriate tests to measure the child's strengths and needs. The persons administering these tests must be qualified to do so.
- f. The assessments are adapted for students with impaired sensory, physical or speaking skills.
- g. A multidisciplinary team, including at least one teacher or other specialist with knowledge in the area of the child's suspected disability, will assess the child.
- h. Testing and assessment materials and procedures must not discriminate on the basis of sex, race, color, national origin or religion.

- i. The HER has the right to obtain an independent educational assessment of the child. Upon the HER's written request, the school must give information about how to obtain this independent assessment by a qualified examiner who is not an employee of the LEA. The costs may be covered by the LEA or the HER may file for due process for compensation.

3. Development and Implementation of an Individualized Education Program

- a. After the child is assessed, an Individualized Education Program (IEP) meeting will take place, within 60 days of receiving consent for the assessment.
- b. At the meeting, the IEP team determines whether the child is eligible for special education based on the assessment results.
- c. If the child is eligible, an IEP will also be developed during the meeting.
- d. The IEP states annual goals and short-term objectives focusing on the child's current level of performance; the services to be provided to the child, dates, duration, and frequency of the services.
- e. The IEP team determines where the services will be delivered and the amount of time the child will spend in general education.
- f. The IEP states the method the school will use to measure the child's progress. The HER will receive a copy of the IEP at the meeting.

4. IEP Reviews

- a. IEP reviews take place at least annually for progress and to make any needed changes.
- b. A mandatory three-year review analyzes the results of a comprehensive re-evaluation of progress.
- c. Additional reviews may be conducted for any of the following reasons:
 - i. After the child has received a formal assessment or reassessment or;
 - ii. If a teacher feels that the child demonstrates significant educational growth or lack of anticipated progress or;
 - iii. When the HER or teacher request a meeting to develop, review, or revise the IEP, or;
 - iv. To develop a transition plan, beginning at age 16 (or younger, if appropriate), or;
 - v. To determine whether a student's misconduct was a manifestation of his/her disability before expelling or suspending the student from school for more than 10 school days.